UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL
E/CN.4/2001/NGO/188
9 April 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

Written statement*/ submitted by the Consortium for Street Children, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 April 2001]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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Street-living and street-working children face two particular threats from the juvenile justice systems of their country: they are more at risk of coming into contact with the juvenile justice system in the first place and simultaneously they are less able to defend themselves against violations of their rights within that system. Since they come from the poorest sectors of society, street children tend also to come from indigenous minority and/or low caste ethnic groups and are therefore affected by intense racism. These factors add up to a pattern of multiple handicaps which have serious implications for children's treatment in law, prison and in their access to justice. In addition, juvenile justice systems are traditionally oriented towards boys, thus compounding the vulnerability of girls within the system.

Street children are often subject to harsh sentences for petty theft, begging, 'vagrancy' or 'prostitution'. Their human rights are violated because of the activities in which they engage in order to survive. They often have no one to plead their case or speak out about conditions they may suffer, both before and during detention, such as extreme overcrowding, malnutrition, physical, mental and sexual abuse, lack of access to medical care or legal advice and little prospect of rehabilitation, education or release.

There is already a considerable body of international law which outlines the human rights standards to be observed in the administration of juvenile justice, in particular the 1989 Convention on the Rights of the Child (Articles 3, 37 and 40) and also including the International Covenant on Civil and Political Rights (Articles 6, 9, 10, 14 and 24), the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 11) and the 1969 Convention on the Elimination of All Forms of Racial Discrimination (Article 5). These basic principles are further elaborated in UN Guidelines such as: UN Rules for the Protection of Juveniles Deprived of their Liberty; UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines); Standard Minimum Rules for the Treatment of Prisoners; Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment; UN Code of Conduct for Law Enforcement Officials; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

However, despite the existence of these international standards, grave abuses of street children within juvenile justice systems are perpetrated with impunity on a daily basis, even in countries which have expressly passed domestic legislation to prohibit these practices.

Specific examples of alleged violations that have come to the attention of the Consortium for Street Children over the past year include: India - the torture of two children in detention in Chennai, Tamil Nadu, February 2000; Paraguay – the inhuman conditions and ill-treatment, sometimes amounting to torture, endemic in the Panchito López Juvenile Detention Centre, as highlighted in a recent report by Amnesty International (April 2001) and in the report of the Special Rapporteur on Torture (E/CN.4/2001/66, para. 835); Dijbouti – the detention of 29 Oromos (Ethiopian citizens) boys in squalid conditions in temperatures of between 35 and 45°C, subject to sexual abuse by fellow adult inmates and prison guards, April 2000; Honduras – the shooting of a 12-year-old boy by policemen, August 2000; Ceuta and Melilla (Spanish territories in North Africa) – the arrest, detention and alleged torture and ill-treatment of street children of Moroccan origin, from November 2000 onwards; Brazil – the ongoing crisis for several years in the FEBEM juvenile detention centres in Sao Paulo, with severe overcrowding, unsanitary conditions and routine violence, as outlined in Amnesty International's report (July 2000) and by the Special Rapporteur on Torture based on his mission to Brazil in August and September 2000 (E/CN.4/2001/66, para. 188 and E/CN.4/2001/66/Add.2).

The Consortium for Street Children believes the evidence gathered by human rights NGOs and by the Special Rapporteur on Torture are examples of a pattern of abuse which is affecting street children in many countries around the world and that there is an ongoing and urgent need for concerted international action to address these grave human rights violations.

With this in mind, the Consortium for Street Children would urge the Commission to press member states to implement resolutions from the 56th Session - 2000/85 (Rights of the Child) and 2000/39 (Human Rights in the Administration of Justice, in Particular Juvenile Justice) - which are essential if the abuse of street children in juvenile justice systems is to be halted. We would particularly highlight the following recommendations:

1. That every child alleged or recognised as having infringed the penal law is treated with dignity in accordance with Article 40 of the CRC, and that depriving children of their liberty should be used only as a measure of last resort and for the shortest appropriate period of time (resolution 2000/85, paras. 35 and 36(b)). This should include an immediate end to the detention of street children for petty theft, begging, 'vagrancy' and 'prostitution'.
2. To prevent all forms of violence against street children (physical, mental and sexual) and to protect them from torture and abuse by the police, other law enforcement authorities or employees in juvenile detention centres, and to investigate allegations and impose appropriate disciplinary or penal sanctions against those responsible (resolution 2000/85, para. 23).
3. To ensure that, if arrested, detained or imprisoned, children are separated from adults (resolution 2000/85, para. 36 (b)).
4. To ensure that all structures, procedures and programmes in the administration of juvenile justice promote the education and rehabilitation of the children involved (resolution 2000/85, para. 36 (a)).
5. That 'at-risk' or 'neglected' children are not processed through the juvenile justice system but rather through appropriate social services.
6. That the principle of non-discrimination (resolution 2000/85, para. 25) in matters of juvenile justice be applied so as to end the harassment of street children on account of their socio-economic, racial and ethnic origins.
7. That all States who have not already done so should ratify existing international human rights treaties which protect street children from these violations, and that States withdraw their reservations to these treaties.

CSC welcomes the interest shown in this area by the UN Coordination Panel on Juvenile Justice, the High Commissioner for Human Rights, the Special Rapporteur on Torture and the Committee on the Rights of the Child. CSC particularly welcomes the Committee's proposal for an in-depth international study on violence against children (CRC/C/SR.650) and would urge the Commission to ensure that sufficient attention is paid in this report to the plight of street children.

The Consortium for Street Children calls on all Governments to tackle the complex problem of abuses of street children in juvenile justice systems as a matter of urgency. In addition to mainstreaming consideration of children's rights into existing treaty and non-treaty mechanisms, the Consortium for Street Children would urge the Commission to consider the naming of a Special

Rapporteur or Representative on Street Children to bring an end to the institutionalised violence and abuses committed against street children on a daily basis.